
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR

Executive Order 29 (2002)

EQUAL OPPORTUNITY IN STATE PROCUREMENT

Meeting the challenges of the 21st century and the New Economy demands that the Commonwealth of Virginia maximize the participation of its citizens and enterprises in the commercial life of the Commonwealth. Thus, it is the policy of the Commonwealth to make sure that small businesses and businesses owned by women and minorities receive every opportunity to compete for the Commonwealth's expenditures for goods and services. Ensuring the inclusion of these businesses in state procurement processes constitutes not only good public policy but also good business and enlightened self-interest.

Just as equal employment opportunity must be an integral part of normal personnel policy, procedures, and practices, so the use of small businesses and businesses owned by women and minorities must be an important feature of the Commonwealth's normal purchasing policy, procedures, and practices. No potential supplier should be precluded from consideration on the basis of race, color, religion, gender, age, or national origin. Every attempt must be made to fully utilize all of the Commonwealth's resources, human as well as material, in an effort to obtain high quality goods and services at reasonable costs.

Every employee who is delegated the responsibility either directly or indirectly to commit the expenditure of funds for the purchase of goods and services on behalf of the Commonwealth is charged with making the objective of supplier diversity a reality. Success depends upon the full, unqualified participation and commitment of all such employees. Employees must conduct all procurement procedures and practices in a fair and impartial manner, avoiding any impropriety or appearance thereof.

The Virginia Public Procurement Act (VPPA), in Section 2.2-4310(A) of the *Code of Virginia*, prohibits all public bodies from discriminating against anyone seeking a contract from the state on the basis of that person's race, religion, color, sex, or national origin. Additionally, whenever a public body engages in a solicitation, it is required to "include enterprises selected from a list made available by the Department of Minority Business Enterprise." The Department of General Services' Procurement and Surplus Property Manual defines solicitation to include Invitations for Bids (IFB), Requests for Proposals (RFP), telephone calls, or any other document issued by the state to obtain bids or proposals for the purpose of entering into a contract.

Under Section 2.2-4310(B) of the VPPA, each public body is required to develop a written program "to facilitate the participation of small enterprises and enterprises owned by women and minorities in procurement" that includes cooperation with the Department of Minority Business Enterprise, the United States Small Business Administration, and other public or private agencies. These programs must include provisions to ensure that the public body does not discriminate in the soliciting or awarding of contracts and that, when all solicitations are made, there are enterprises included in the solicitation selected from a list made available by the Department of Minority Business Enterprise.

By virtue of the authority vested in me under Article V, Section 1 of the Constitution of Virginia and Sections 2.2-103, 2.2-104, 2.2-106, and 2.2-1400 of the *Code of Virginia*, I hereby direct the Cabinet and all heads of all state agencies and public bodies to take the following action to implement the equal opportunity and nondiscrimination requirements set forth in the VPPA:

Each Cabinet Officer must submit to the Chief of Staff no later than August 15 of each fiscal year a written program from each agency or public body within his or her secretariat that aims to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions with the agency or public body that fiscal year. The first such report is due by August 15, 2002.

Such programs must include provisions to ensure that the agency or public body does not discriminate in the soliciting or awarding of contracts in violation of Section 2.2-4310 of the *Code of Virginia* and that, when solicitations are made, businesses are included in the solicitation that are selected from a list made available by the Department of Minority Business Enterprise. Each written program must address minority prime contracting and subcontracting and include strategies for continuous improvement in both areas.

Each agency's or public body's written program must be reviewed and approved by the applicable Secretary with the advice and assistance of the Secretary of

Administration, the Director of the Department of Minority Business Enterprise, and the Director of the Department of General Services.

To assist agencies in the development of required written programs, the Chief of Staff is authorized to develop a model written program, in consultation with the Secretary of Administration, the Department of Minority Business Enterprise, the Department of General Services, and the Office of the Attorney General.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2006, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 2nd day of July 2002.

Mark R. Warner, Governor

Attest:

Secretary of the Commonwealth